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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 JUSTIN KINNEY,

10 Plaintiff,

11 v.

12 MICHAEL ASTRUE, Commissioner of  
13 Social Security,

14 Defendant.

CASE NO. C09-5499RBL

ORDER

15 The Court, having reviewed the record, does hereby find and ORDER:

16 (1) Plaintiff's application to proceed in forma pauperis was previously granted by the  
17 court, and the court explained that it is plaintiff's responsibility to properly serve copies of the  
18 complaint along with the appropriate summons as required by Rule 4 of the Federal Rules of  
19 Civil Procedure. Rule 4(m) of the Federal Rules of Civil Procedure requires a defendant to be  
20 served within 120 days after the complaint is filed. Fed. R. Civ. P. Rule 4(m). Rule 4(l) requires  
21 proof of service to be filed or made to the court. Fed. R. Civ. P. Rule 4(l).

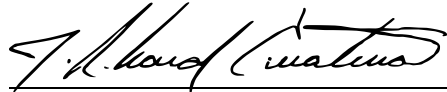
22 With regard to a social security complaint, Rule 4(i) requires plaintiff to serve a summons and  
23 copy of complaint on the following entities: (a) the United States attorney for the district in  
24 which the action is brought or to an assistant United States attorney or clerical employee  
25 designated by the United States attorney in a writing filed with the clerk of the court or the civil  
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1 process clerk at the office of the United States attorney; (b) the Attorney General of the United  
2 States at Washington, District of Columbia; and (c) the officer or agency. At this time the record  
3 does not show that the complaint has been properly served.

4 (2) Rule (4)(m) requires the court to provide notice to the plaintiff before the matter  
5 can be dismissed for lack of prosecution under that rule. Accordingly, plaintiff is hereby notified  
6 that proof of service must be made to the court **by not later than March 3, 2010**. Otherwise,  
7 the court will recommend dismissal of this case for failure to prosecute the matter  
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9 (3) The Clerk is directed to send copies of this Order to plaintiff's counsel.

10 DATED this 5<sup>th</sup> day of February, 2010.

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14 J. Richard Creatura  
15 United States Magistrate Judge  
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